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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,213	10/16/2000	Eric A. Voit	50107-472	8815
32127	7590	10/06/2004	EXAMINER	
VERIZON CORPORATE SERVICES GROUP INC. C/O CHRISTIAN R. ANDERSEN 600 HIDDEN RIDGE DRIVE MAILCODE HQEO3H14 IRVING, TX 75038			NGUYEN, TOAN D	
		ART UNIT	PAPER NUMBER	
		2665		
DATE MAILED: 10/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/688,213	VOIT ET AL.
Examiner	Art Unit	
Toan D Nguyen	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 October 2000.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-16 and 18-28 is/are rejected.

7)  Claim(s) 17 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 16 October 2000 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 and 25-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1 and 25 both comprise an apparatus and a method in the same claim.

### *Claim Rejections - 35 USC § 112*

2. Claims 1-9 and 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 25 both comprise an apparatus and a method in the same claim. The scope is, thus, unascertainable.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 10-15 and 18-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaffine et al (US 6,654,914).

For claim 10, Kaffine et al disclose network fault isolation comprising:

a web server (figure 1, reference 90), coupled to the local services domain (figure 1, reference 26, col. 6 lines 23-25), for interactive communication with a customer subscribing (figure 1, reference 12) to wide area domain service (figure 1, reference 22), through the access data network (figure 1, reference 10) (col. 5 lines 19-22); and

means responsive to customer (figure 7, reference 140) selections via the interactive communication with the web server (figure 7, reference steps 150 and 152) (col. 11 lines 45-52), for automatically isolating selected points of the access data network (figure 1, reference 10) (figure 8, reference step 198, col. 12 lines 54-56; and figure 10, reference step 264, col. 15 lines 1-4) and determining a current status of at least one element associated with each selected point effecting the wide area domain access service provide to the customer (figure 8, reference step 205, col. 13 lines 4-10; and figure 10, reference step 240, col. 14 lines 4-7), and for providing results of each status determination to the web server (figure 8, reference step 204, col. 12 line 67 to col. 13 line 1; and figure 10, reference step 266, col. 15 lines 1-4).

For claim 11, Kaffine et al disclose wherein, the web server provides a report of each determined current status through the access data network to the customer (figure 8, reference step 205, col. 13 lines 4-10; figure 10, reference step 266, col. 15 lines 1-4; and figure 12, reference step 290, col. 15 lines 54-57).

For claim 12, Kaffine et al disclose wherein the means for determining comprises a server (figure 2, references IDUs 94 and 96, col. 7 lines 47-50) for conducting a throughput test regarding the wide are domain access service (figure 1, reference 22) for the customer (figure 1, reference 12) (figure 8, col. 12 lines 21-58; figure 9 col. 13 line 24 to col. 14 line 65; and figure

11 col. 15 line 32 to col. 16 lines 67) and providing test results to the web server (figure 1, references 90 and 92) (figure 8, reference step 204, col. 12 line 67 to col. 13 line 1; and figure 10, reference step 266, col. 15 lines 1-4).

For claim 13, Kaffine et al disclose wherein the means for determining comprises a user device in communication with a server (figure 2, references IDUs 94 and 96, col. 7 lines 47-50) through the access data network (figure 1, reference 10) for performing a throughput test (figure 8, col. 12 lines 21-52), and for calculating and presenting at least one communication rate as a result of the throughput test (figure 8, col. 13 lines 1-10).

For claim 14, Kaffine et al disclose wherein the means for determining comprises a server (figure 2, references IDUs 94 and 96, col. 7 lines 47-50) coupled to the local services domain for performing a test regarding the access service for the customer and providing test results to the web server (figures 9-10, col. 13 line 32 to col. 15 line 4).

For claim 15, Kaffine et al disclose wherein the means for determining comprises an application (figure 7, reference 149) for obtaining status information from at least one element of the access data network regarding the wide area domain access service (figure 1, reference 22) for the customer (figure 1, reference 12) and providing the status information to the web server (figure 1, references 90 and 92) (figure 8, reference step 205, col. 13 lines 4-10; and figure 10, reference step 240, col. 14 lines 4-7).

For claim 18, Kaffine et al disclose network fault isolation comprising:  
at least one machine readable medium (figure 1, references 90 and 92, col. 6 lines 25-27);

programming code, carried by the at least one machine readable medium (figure 1, references 90 and 92, col. 6 lines 25-27), for execution by at least one computer (col. 9 line 14), wherein the programming code comprises:

a web server application (figure 7, reference 142) for implementing interactive communication with a user subscribing (figure 7, reference 140) to services of the access data communications network (figure 1, reference 10) desiring service assessment and selecting network points for assessment (figure 7, reference steps 150 and 152) (col. 11 lines 45-52); and

a test application (figure 7, reference 149, col. 11 line 49-50) for: automatically isolating selected points (figure 8, reference steps 52-54) of the access data network (figure 1, reference 10) (figure 8, reference step 198, col. 12 lines 54-56; and figure 10, reference step 264, col. 15 lines 1-4), determining a current status of at least one element associated with each selected point effecting the wide area domain access service provide to the customer (figure 8, reference step 205, col. 13 lines 4-10; and figure 10, reference step 240, col. 14 lines 4-7), and providing results of the status determinations to the web server application (figure 8, reference step 204, col. 12 line 67 to col. 13 line 1; and figure 10, reference step 266, col. 15 lines 1-4).

For claim 19, Kaffine et al disclose wherein the web server application (figure 7, reference 149) provides an interactive user interface for the customer (figure 7, reference 140) through the access data communication network (figure 1, reference 10) (col. 11 lines 45-50).

For claim 20, Kaffine et al disclose wherein the web server application (figure 7, reference 149) provides an interactive user interface for personnel (figure 7, reference 140) concerned with operations of the access data communication network (figure 1, reference 10) (col. 11 lines 45-50).

For claim 21, Kaffine et al disclose wherein the test application (figure 7, reference 149) selectively obtain status information from at least one element of the access data network (figure 1, reference 10) (figure 8, reference step 205, col. 13 lines 4-10; and figure 10, reference step 240, col. 14 lines 4-7), and selectively activates at least one throughput test through the access data communication network to equipment of the customer (figures 7-8, col. 11 line 53 to col. 12 line 61).

For claim 22, Kaffine et al disclose network fault isolation comprising:  
interacting with a user (figure 7, reference 140) through the access data communication network (figure 1, reference 10) to identify a customer subscribing to the wide area access service (figure 1, reference 22), requiring service assessment (figure 7, reference steps 150 and 152, col. 11 lines 45-47; figure 9, reference steps 210 and 212, col. 13 lines 24-31; and figure 11, reference 274 and 276, col. 15 lines 32-37);  
from a local service domain (figure 1, reference 26), selectively isolating (figure 8, reference step 198, col. 12 lines 54-56; and figure 10, reference step 264, col. 15 lines 1-4) and determining current capabilities of test points in the access data communication network (figure 1, reference 10) to provide service for the customer (figure 8, reference 140) (figure 8, reference step 205, col. 13 lines 4-10; and figure 10, reference step 240, col. 14 lines 4-7); and  
automatically reporting the determined current capabilities of the test points through the access data communication (figure 1, reference 10) to the user (figure 8, reference 1400 (figure 8, reference step 205, col. 13 lines 4-10; figure 10, reference step 266, col. 15 lines 1-4; and figure 12, reference step 290, col. 15 lines 54-57).

For claim 23, Kaffine et al disclose wherein the user is the customer (figure 7, reference 140, col. 11 lines 45-47).

For claim 24, Kaffine et al disclose wherein the determined current capabilities relate to an access service for the customer to a wide area domain (figures 9-10, col. 14 lines 5-7).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaffine et al (US 6,654,914) in view of Rekhter (US 5,917,820).

For claim 16, Kaffine et al disclose network fault isolation comprising:

an access data network (figure 1, reference 10), for providing access services to a wide area domain (figure 1, reference 22) and a logically separate local services domain (figure 1, reference 26) (col. 5 lines 14-22), the access data network separating the two domains at least

in part based on at a level above a protocol level used to define basic connectivity through the access data network to the wide area domain (figure 1, reference 20, col. 5 line 64 to col. 6 line 2 and col. 6 lines 53-56);

a web server (figure 1, reference 90), coupled to the local services domain (figure 1, reference 26, col. 6 lines 23-25), for interactive communication with a customer subscribing (figure 1, reference 12) to wide area domain service (figure 1, reference 22), through the access data network (figure 1, reference 10) (col. 5 lines 19-22); and means responsive to customer (figure 7, reference 140) selections via the interactive communication with the web server (figure 7, reference steps 150 and 152) (col. 11 lines 45-52, the user' browser 142 inherently functions as a web sever (figure 4, col. 10 lines 42-43)), for automatically isolating selected points (figure 8, reference step 52-54) of the access data network (figure 1, reference 10) (figure 8, reference step 198, col. 12 lines 54-56; and figure 10, reference step 264, col. 15 lines 1-4) and determining a current status of at least one element associated with each selected point effecting the wide area domain access service provide to the customer (figure 8, reference step 205, col. 13 lines 4-10; and figure 10, reference step 240, col. 14 lines 4-7), and for providing results of each status determination to the web server (figure 8, reference step 204, col. 12 line 67 to col. 13 line 1; and figure 10, reference step 266, col. 15 lines 1-4).

However, Kaffine et al do not disclose two domains at least based on distinctions in types of protocol. In an analogous art, Rekhter discloses the two domains (figure 1, references 104-108, col. 1 lines 23-24) at least based on distinctions in types of protocol (col. 3 lines 1-6). One skilled in the art would have recognized two domains at least based on distinctions in types of protocol to use the teachings of Rekhter in the system of Kaffine et al. Therefore, it would have

been obvious to one of ordinary skill in the art at the time of the invention, to use the two domains at least based on distinctions in types of protocol as taught by Rekhter in Kaffine et al's system with the motivation being to ensure orderly coordination of the use of shared media, and handles addressing when multiple systems are reachable (col. 2 line 66 to col. 3 line 1).

*Allowable Subject Matter*

8. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Contact Information*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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